

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH G SIMMONS JR,

Plaintiff,

v.

DEBORAH J WOFFARD et al.,

Defendant.

CASE NO. C11-5999 BHS-JRC

ORDER STAYING ACTION AND
DIRECTING PLAINTIFF TO
COMPLY WITH THE COURT'S
MAY 16, 2012 ORDER

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

The Court granted plaintiff's motion to file an amended complaint on May 16, 2012 (ECF N0 45). The Court specifically instructed plaintiff to title the document as an "amended complaint." The Court informed plaintiff that the document would act as a complete substitute for the original complaint (ECF No. 45). The Court also stated that a new scheduling order would be issued if additional defendants were served (ECF No. 45). The Court informed plaintiff that he must provide service copies and addresses for each new defendant (ECF No. 45).

1 Instead of complying with the Court's order, plaintiff filed a motion for reconsideration
2 asking the Court to extend the discovery cutoff date in this action (ECF No. 50). Later, on June
3 20, 2012, plaintiff filed an amended complaint. Plaintiff's amended complaint does not comply
4 with the Court's order. Rather than submitting a complaint that complied with the Court's order,
5 plaintiff re-filed his original complaint and added pages (ECF No. 57). Plaintiff's new complaint
6 is not titled as an "amended complaint" and the new defendants to this action are not clearly
7 identified in either the caption, nor the "parties" section of the complaint (ECF No. 57). Thus, the
8 Court did not order service by mail on any new defendant because the complaint did not appear
9 to add any new defendants (ECF No. 57).

10 Further, Plaintiff has failed to follow the Court's instructions regarding service copies.
11 Plaintiff provided only one copy of his new 68 page complaint for service. The Court will not
12 make copies for service in this case.

13 Careful study of the complaint shows that plaintiff may be trying to add seven new
14 defendants to this action. The Court makes this assumption because after the twelve pages of
15 complaint and after plaintiff's signature, plaintiff has provided a one page list of people (ECF
16 No. 57, page 13). The seven new people work at the Stafford Creek Corrections Center. The first
17 seven defendants work at the Washington State Correction Center.

18 Plaintiff's failure to comply with this Court's instruction has lead to confusion and delay
19 in the action. The Court should not have to guess what plaintiff is intending to do or who the
20 named defendants are. To prevent prejudice to the parties, the Court now orders that this action is
21 STAYED.

22 The Court will not consider plaintiff's pending motions for discovery (ECF No. 64 and
23 66) and the Court orders that those motions be struck from the Court's calendar.

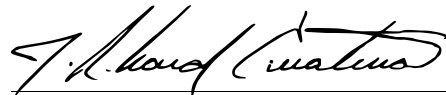
1 The Report and Recommendation on injunctive relief that is before the District Court will
2 proceed and parties may file objections to that report.

3 On or before August 31, 2012, plaintiff will file an amended complaint that complies
4 with the Court's May 16, 2012 order (ECF No. 45).

5 The amended complaint must be clearly titled as an "amended complaint" and must
6 contain a short clear statement as to the parties and the claims. *See* Fed. R. Civ. P. 8 (a). Plaintiff
7 is ordered to use the court's form for the complaint. Plaintiff must provide a service address and
8 service copy for each defendant who has not already appeared in this action.

9 Failure to comply with this order will result in a Report and Recommendation that
10 plaintiff be sanctioned for failure to comply with a Court order. Sanctions may include monetary
11 sanctions and or dismissal of this action.

12 Dated this 27th of July, 2012.

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15 J. Richard Creatura
16 United States Magistrate Judge
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